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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,520	03/30/2004	Anthony G. Liepert	04-04 US	3306
23693	7590	06/12/2006	EXAMINER	
Varian Inc. Legal Department 3120 Hansen Way D-102 Palo Alto, CA 94304			TRIEU, THERESA	
			ART UNIT	PAPER NUMBER
			3748	

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,520

Applicant(s)

LIEPERT ET AL.

Examiner

Theresa Trieu

Art Unit

3748

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 April 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,9-13,15,17,18 and 20 is/are pending in the application.
- 4a) Of the above claim(s) 6-8,14,16 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3,9-11,13,15,17,18 and 20 is/are rejected.
- 7) ☒ Claim(s) 4,5 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This Office Action is responsive to the applicants' election filed on April 6, 2006.

#### ***Election/Restrictions***

Applicants' election with traverse of Figs. 4A and 7 in the reply filed on April 6, 2006 is acknowledged. The traversal is on the ground(s) that the searches for the species would be coextensive. This is not found persuasive because the applicants claim recite several limitations which are mutually exclusive to the different species as noted by the examiner in the Restriction Requirement mailed on March 7, 2006.

The requirement is still deemed proper and is therefore made FINAL.

Applicants' election of the species of Figs. 4A and 7 claims 1-5, 8-13, 15 and 17-20 being readable thereon is believed to be in error, claims 8 and 19 appear to read on the species of Fig. 9; therefore, the examiner has not examined these claims on their merits. The examiner has examined claims 1-5, 9-13, 15 and 17, 18 and 20 which read on the elected species of Figs. 4A and 7. Claims 8 and 19 are withdrawn from consideration as being directed to a non-elected species.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 3, 9-11, 13, 15, 17, 18 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by any one of Busch et al. (Busch) (Patent Number 3,560,119) or Vulliez (Patent Number 3,802,809) or Pottier (Patent Number 6,022,202).

Regarding claims 1, 2, 3, 9-11, 13 and 15, Busch (as shown in Fig. 1) or Vulliez (as shown in Fig. 1) or Pottier (as shown in Fig. 1) discloses a scroll pumping apparatus comprising: a first/stationary scroll element (45, 46 in Busch; 13' in Vulliez; 114 in Pottier) including a stationary scroll blade and a second/orbiting scroll element (43, 44 in Busch; 23' in Vulliez; 131 in Pottier) including an orbiting scroll blade; a drive mechanism (42 in Busch; 19 in Vulliez; 140 in Pottier) operatively coupled to the second scroll element for producing orbiting motion of the second scroll element relative to the first scroll element ; and a synchronization device (50 in Busch; 11, 28 in Vulliez; 160 in Pottier) comprising a strip having connected, substantially flat sections coupled between the first scroll element and the second scroll element; the synchronization device has a generally square configuration; the substantially flat sections of the synchronization device (11, 28 in Vulliez; 160 in Pottier) being joined by connecting sections (29, 30 in Vulliez; 194, 196 in Pottier); the scroll compressor as a vacuum pump or as a compressor; the strip (50 in Busch; 11, 28 in Vulliez; 160 in Pottier) including areas for connection to the orbiting scroll element (43, 44 in Busch; 23' in Vulliez; 131 in Pottier) and areas for connection to a stationary component (38 in Busch; 10'' in Vulliez; 100 in Pottier) of the scroll pumping apparatus; the synchronization device (11, 28 in Vulliez; 160 in Pottier) having a closed loop configuration.

The method claims 17, 18 and 20 are inherent in the operation of any one the Busch or Vulliez or Pottier device.

***Allowable Subject Matter***

Claims 4, 5 and 12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Prior Art***

The IDS (PTO-1449) filed on March 30, 2004 and June 6, 2005 has been considered.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consists of three patents: Liepert et al. (U.S. Patent Number 6,764,288), Machida et al. (Publication Number JP 02-245488) and Makihiro (Publication Number JP 11-280675), each further discloses a state of the art.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa Trieu whose telephone number is 571-272-4868. The examiner can normally be reached on Monday-Friday 8:30am- 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion can be reached on 571-272-4859. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TT  
June 5, 2006



Theresa Trieu  
Primary Examiner  
Art Unit 3748